

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
)	
REIER BROADCASTING COMPANY, INC.)	File No. EB-00-ST-004
)	NAL/Acct. No. X3298001
)	
Licensee of Station KOB(AM))	
Bozeman, Montana)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: February 29, 2000

Released: February 29, 2000

By the Enforcement Bureau, Seattle Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Reier Broadcasting Company, Inc., licensee of Station KOB(AM), Bozeman, Montana, has apparently willfully violated Section 73.49 of the Commission's Rules¹, which requires that antenna towers must be enclosed within effective locked fences. We conclude that Reier Broadcasting Company, Inc., licensee of Station KOB(AM) is apparently liable for a forfeiture in the amount of seven thousand dollars (\$7,000).

II. BACKGROUND

2. On December 28, 1999, the Enforcement Bureau's Seattle Office received a complaint from the owner of the property where KOB(AM)'s antenna is located, that the fencing at the base of KOB's antenna tower was in disrepair and falling down. The complainant expressed extreme concern because of the addition of a children's daycare facility on the property at this location.

3. On December 30, 1999, a Seattle agent left a detailed voice mail message at KOB explaining the alleged fencing complaint and requesting a return call.

¹ 47 C.F.R § 73.49.

4. On January 3, 2000, the Seattle agent received a return call from Mr. Bill Reier of Reier Broadcasting Company, Inc., and KOB(AM). Mr. Reier assured the agent that the fence was substantial. The agent reminded Mr. Reier of the Commission's requirements for tower fencing. As a follow-up, the agent faxed Mr. Reier a copy of 47 C.F.R. § 73.49 which addresses base fencing at a series fed AM broadcast antenna tower.

5. On January 22, 2000, two Seattle agents conducted an inspection of the KOB(AM) antenna site in Bozeman, Montana. The agents found that the fencing was old wooden fencing, most of which, was rotten and fallen over on the ground, leaving the antenna accessible to the public. There did not appear to be a locked gate associated with the wooden fencing. There was some temporary orange plastic net fencing, which was also partially falling over. A subsequent telephone call from the property owner, revealed that he had installed the plastic netting to offer some temporary protection.

III. DISCUSSION

6. Section 73.49 of the Commission's rules provides:

Antenna towers having radio frequency potential at the base (series fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. Ready access must be provided to each antenna tower base for meter reading and maintenance purposes at all times.

7. In this case, it appears that Reier Broadcasting Company, Inc., violated Section 73.49 of the Commission's rules by not providing effective fencing around their antenna.

8. We reject the statement of Reier Broadcasting Company, Inc., that the fencing was substantial. The rules clearly state that the antenna must be enclosed and a visual inspection indicated that a major portion of the fence was lying on the ground.

9. The Commission assesses monetary forfeitures pursuant to Section 503(b) of the Act² and Section 1.80(a) of the Commission's rules³, which both state that any person who willfully or repeatedly fails to comply with the provisions of the Communications Act or the Commission's rules shall be liable for a forfeiture penalty. For purposes of Section 503(b), the term "willful" means that the violator knew the requirement of the Commission's rule, but did not take corrective action to comply with the rule.

² 47 U.S.C. § 503(b)

³ 47 C.F.R. § 1.80.

10. Based on the evidence before us, we find that Reier Broadcasting Company, Inc., licensee of Station KOB(AM) is in apparent willful violation of Section 73.49 of the Commission's rules. The Commission's Forfeiture Policy Statement sets a base forfeiture amount of \$7,000 for a violation of Section 73.49 of the rules.⁴

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended⁵, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules⁶, Reier Broadcasting Company, Inc., licensee of Station KOB(AM) is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of seven thousand dollars (\$7,000) for violating the provisions of Section 73.49⁷ of the Commission's Rules, which requires that AM antenna towers must be enclosed within effective locked fences.

12. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules⁸, that within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Reier Broadcasting Company, Inc., SHALL PAY to the United States the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. X3298001 referenced above.

14. The response if any must be mailed to the Office of the Secretary, Federal Communications Commission, Mail Stop 1500E3-DLH, 445 12th Street, S.W., Washington, DC 20554, Attn: Enforcement Bureau, and MUST INCLUDE THE NAL/Acct. No. X3298001.

⁴ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission's Rules*, 12 FCC Rcd 17087, 17114 (1997), *recon. denied* FCC 99-407 (released December 28, 1999); 47 C.F.R. § 1.80(b).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁷ 47 C.F.R. § 73.49.

⁸ 47 C.F.R. § 1.80.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.⁹

17. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Reier Broadcasting Company, Inc., at P.O. Box 20, Bozeman, Montana 59715.

FEDERAL COMMUNICATIONS COMMISSION

Dennis J. Anderson
District Director, Seattle Office
Enforcement Bureau

⁹ See 47 C.F.R. § 1.1914.